

REMARKS

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Summary of Telephonic Interview with Examiner

Initially, Applicants wish to thank the Examiner for discussing the above-identified application with Applicants' representative on January 26, 2010.

During the discussion, the Examiner indicated that the change from toluic acid to benzoic acid caused her to alter the rejection from an obviousness rejection (103) to an anticipation/obviousness rejection (102/103), since the Smith et al. reference *allegedly* teaches benzoic acid.

Additionally, the Examiner discussed her position that the viscosity limitation (item (ii)) is indefinite, since the condition at which the viscosity is measured is not fully disclosed. The Examiner emphasized that the claims do not include the solvent for measuring the viscosity of the composition, nor the concentration of PMAO. Lastly, the Examiner noticed that the previously filed Declaration discussed the stability of the composition, but claim 1 does not require a particular stability.

Applicants appreciate the Examiner's comments regarding the outstanding Office Action, and have amended the claims to address each of the Examiner's concerns.

Applicants appreciate the Examiner's helpful comments.

Claim Amendments

Claim 1 has been amended to reincorporate the solvent (toluene) and the aluminum concentration of the generated polymethylaluminoxane composition, which were previously recited in the claims. (Please see the claims of February 19, 2009.) Applicants note that this limitation was previously rejected as not supported by the specification, because according to the Examiner, Example 4 of the specification only supports an aluminum concentration of 9.4 wt% of the obtained reaction mixture from the thermal decomposition of trimethylaluminum, benzoic acid, and toluene as a solvent. (Please see the last paragraph on page 3 of the Office Action of

August 6, 2009.) Applicants respectfully note that this limitation is supported by the present claims, which recites trimethylaluminum, benzoic acid, and toluene as a solvent.

Claim 1 has also been amended to incorporate a limitation directed to the stability of the polymethylaluminoxane composition. Support for this new limitation is found on page 14, lines 14-18 and the Examples of Applicants' originally filed specification.

Consideration After Final Rejection

Although this Amendment is presented after final rejection, the Examiner is respectfully requested to enter the amendments and consider the remarks, as they address the Examiner's concerns and place the application in condition for allowance.

Patentability Arguments

The patentability of the present invention over the disclosure of the reference relied upon by the Examiner in rejecting the claim will be apparent upon consideration of the following remarks.

Rejection Under 35 U.S.C. § 102(b)/103(a)

Claim 1 is rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative under 35 U.S.C. § 103(a) as obvious over Smith et al. (U.S. Patent No. 5,831,109). This rejection is respectfully traversed.

Applicants previously provided evidence that Examples 2 and 4 of Smith et al. (as relied upon by the Examiner) fail to provide a PMAO composition with **high stability**. Applicants direct the Examiner's attention to the Declaration Under 37 CFR 1.132, submitted June 19, 2009.

In item 4 of the outstanding Office Action, the Examiner indicates that this previously filed Declaration is irrelevant to the new rejection, since the Declaration fails to provide any data to show that Smith's Examples 2 and 4 do not meet the limitations of the instant claim.

During the telephonic interview with the Examiner (discussed above), the Examiner clarified her position for Applicants' representative. Specifically, the Examiner indicated that her opinion regarding the previously filed Declaration related to the current *alleged* indefiniteness of the claim. The Examiner noted that the experiments discussed in the

Declaration include limitations which are not present in Applicants' claim. Moreover, the Examiner discussed her position that the viscosity limitation of claim 1 is indefinite, since the condition at which the viscosity is measured is not fully disclosed. As discussed above, Applicants have amended claim 1 to incorporate the solvent (toluene) and the aluminum concentration of the generated polymethylaluminoxane. Accordingly, Applicants respectfully assert that any indefiniteness concerns of the Examiner have been fully addressed.

In the Interview Summary form, mailed February 8, 2010, the Examiner indicated that Applicants must show that the viscosities of the aluminoxane composition of the Examples of the cited art are not within the range of the viscosity of the instant claims.

As discussed in the previously filed Declaration, it was not possible to determine the viscosity of the experiments based on Smith's Example 2, as deposition of gels was showed the day after synthesis. (Please see pages 4-6 of the Declaration.) Additionally, although the diluted sample (b) of the experiment based on Smith's Example 4 had an initial viscosity of 2.01 cP, the sample showed gel formation after 14 days. The initial viscosity of undiluted sample (a) of the experiment based on Smith's Example 4 had an initial viscosity of 8.21 cP, and thus was highly viscous. It was not possible to determine the viscosity of this sample after 20 days, as it increased to a value outside the measurable range of the viscometer, and thus clearly outside Applicants' recited range. (Please see pages 6 and 7 of the Declaration.)

Accordingly, the Examples of Smith et al. fail to teach or suggest the limitations of Applicants' claims, as they fail to provide a composition with Applicants' recited viscosity and/or they fail to provide a composition with high stability.

In order to further demonstrate the differences between the presently claimed invention and Examples 2 and 4 of the Smith et al. reference, Applicants have now incorporated a stability limitation into claim 1. Specifically, amended claim 1 recites that the generated polymethylaluminoxane composition does not generate gels when stored at 25°C for 90 days.

In view of the comments provided above in combination with the previously submitted evidence, Applicants respectfully assert that the subject matter of claim 1 is patentable over Smith et al. Withdrawal of the above rejection is respectfully requested.

Conclusion

Therefore, in view of the foregoing amendments and remarks, it is submitted that the ground of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

If, after reviewing this Amendment, the Examiner feels there are any issues remaining which must be resolved before the application can be passed to issue, the Examiner is respectfully requested to contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

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